

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BERTHA BATEY,)	
)	
Plaintiff,)	
v.)	
)	No. 3:05-0996
METROPOLITAN GOVERNMENT)	JUDGE ECHOLS
DEPARTMENT OF HOSPITALS,)	
et al.,)	
)	
Defendants.)	

ORDER

Pending before the Court is the Report and Recommendation of the Magistrate Judge (Docket Entry No. 8) recommending dismissal of this suit without prejudice for the failure of *pro se* Plaintiff Bertha Batey to effectuate proper service on the named Defendant Metropolitan Government Department of Hospitals within 120 days after the filing of the Complaint, as required by Federal Rule of Civil Procedure 4(m).

Under Federal Rule of Civil Procedure 72(b) and 28 U.S.C. § 636(b)(1), the Court may accept, reject, or modify in whole or in part the findings or recommendations made by the Magistrate Judge.

Plaintiff filed a response to the Report and Recommendation affirming that she served an exact copy of the Complaint by hand-delivery or certified mail on the Metropolitan Law Department. (Docket Entry No. 27.) Plaintiff states she will serve the Metropolitan Law Department a second time, and she "accept[s] this

court's Report and Recommended action of Dismissed Without Prejudice."

Having provided Plaintiff an opportunity to explain why she did not serve the named Defendant within 120 days, the Magistrate Judge determined that Plaintiff's explanation did not establish good cause for her failure to effectuate proper service. This Court agrees with the Magistrate Judge's assessment. Moreover, service on the Metropolitan Law Department does not satisfy the required service on the named Defendant.

Accordingly, the Court rules as follows:

(1) The Report and Recommendation (Docket Entry No. 8) is hereby ACCEPTED.

(2) All other pending motions are hereby DENIED AS MOOT.

(3) This case is hereby DISMISSED WITHOUT PREJUDICE.

(4) Entry of this Order on the docket shall constitute entry of final Judgment in accordance with Federal Rules of Civil Procedure 58 and 79(a).

It is so ORDERED.



ROBERT L. ECHOLS
UNITED STATES DISTRICT JUDGE